

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

ANTHONY CARTER,)
)
Plaintiff,) Civil Action No. 23-1754
v.)
)
RICHARD FITZGERALD,ORLANDO)
HARPER, ALLEGHENY COUNTY,)
COMMONWEALTH OF PA, FAYETTE)
COUNTY, FAYETTE COUNTY)
EXECUTIVE, DISTRICT ATTORNEY)
RICH BOWERS, WARDEN JOHN)
LENVEY, STATE TROOPER JOHN)
DOE's #1-#7, JANE DOE, and)
UNIONTOWN HOSPITAL WVU)
MEDICINE,)
)
Defendants.)

MEMORANDUM ORDER

The case was referred to Magistrate Judge Maureen P. Kelly in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Local Civil Rules 72.C and D. Magistrate Judge Kelly issued a Report and Recommendation filed October 1, 2024, recommending that the motions to dismiss filed by Defendants Fayette County, District Attorney Rich Bowers, and Warden John Leakey, be granted and the complaint be dismissed with prejudice as to said Defendants. ECF No. 46. The Magistrate Judge further recommended that the claims asserted against the remaining Defendant, the Fayette County Executive, be dismissed sua sponte. The parties were informed that in accordance with 28 U.S.C. § 636(b)(1)(B) and (C), and Local Rule of Court 72.D.2, that objections to the Report and Recommendation were due by October 18, 2024 for Mr. Carter. No Objections have been filed. After de novo review of the pleadings and

the documents in the case, together with the Report and Recommendation, the following order is entered:

AND NOW, this 4th day of December 2024,

IT IS ORDERED that the Report and Recommendation, ECF No. 46, filed on October 1, 2024, by Magistrate Judge Kelly, is adopted as the Opinion of the Court.

IT IS FURTHER ORDERED that Uniontown Hospital's Motion to Dismiss (ECF No. 28) is GRANTED. Leave to amend is not granted as such would be futile. All claims asserted against Uniontown Hospital are dismissed with prejudice.

IT IS FURTHER ORDERED that Fayette County, District Attorney Rich Bowers, and Warden John Leakey's Motion to Dismiss (ECF No. 34) is GRANTED. Leave to amend is not granted as such would be futile. All claims asserted against Fayette County, District Attorney Rich Bowers, and Warden John Leakey are dismissed with prejudice.

Finally, it is ORDERED that all claims asserted against Defendant Fayette County Executive are dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii), for failure to state a claim upon which relief may be granted. Leave to amend is not granted as such would be futile. All claims asserted against Fayette County Executive are dismissed with prejudice.

This matter is returned to the Magistrate Judge for further proceedings.

s/Marilyn J. Horan
Marilyn J. Horan
United States District Court Judge

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